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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,617	11/12/2003	Damian Hajduk	2000-001CON2	9271
25215	7590	05/20/2004	EXAMINER	
DOBRUSIN & THENNISCH PC 401 S OLD WOODWARD AVE SUITE 311 BIRMINGHAM, MI 48009			LARKIN, DANIEL SEAN	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,617

Applicant(s)

HAJDUK ET AL.

Examiner

Daniel S. Larkin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003 and 22 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Acknowledgement is made of applicants' preliminary amendment filed 12 November 2003 and 22 April 2004. The Office Action, which follows, takes into account the changes made to the specification and the claims.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "109" and "110", as shown in Figure 1, have both been used to designate a "metal foil".

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

Reference numerals "1102b" and "1109b" do not appear in the drawing figures as suggested by the disclosure on page 23, page lines 10 and 16.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "adjusting device for adjusting the separation of the plates and the feedback circuit for providing force rebalance" in combination with all of the remaining limitations of the claim must be shown or the feature(s) canceled from the claim. No new matter should be entered.

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5. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

6. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicants' cooperation is requested in correcting any errors of which applicants may become aware in the specification.

7. The disclosure is objected to because of the following informalities:

Page 1, text line 3: The term "serial no." should be corrected to read -- Serial No. --; and the phrase --, now U.S. Patent No. 6,668,622, which is a continuation of application Serial No. 09/632,378 filed August 3, 2000, now U.S Patent No. 6,484,567 -- should be inserted after the date "July 25,2002".

Page 4, page line 13: The article "a" should be corrected to read -- an --.

Page 4, page lines 23 and 28: A -- comma -- should be inserted after the term "embodiment".

Page 5, page line 8: A -- comma -- should be inserted after the term "embodiment".

Page 7, page line 23: A -- period -- should be inserted after the term "embodiments".

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Page 7, page lines 27 and 32: The abbreviation "Fig." should be corrected to read -- FIG. --, which is consistent with the designation used in the drawing figures.

Page 7, page line 30: The abbreviation "Figs." should be corrected to read -- FIGS. --.

Page 8, page lines 1, 3, 4, 6, 7, 9, 12, 13, 15, 18, 21, and 24: The abbreviation "Fig." should be corrected to read -- FIG. --.

Page 8, page line 31: The abbreviation "Figs." should be corrected to read -- FIGS. --.

Page 9, page lines 2 and 26: The abbreviation "Fig." should be corrected to read -- FIG. --.

Page 9, page line 3: Should reference numeral "100" be corrected to read -- 102 -- or should reference numeral "101" be corrected to read -- 103 --?

Page 9, page line 4: Should reference numeral "102" be corrected to read -- 100 --?

Page 9, page line 5: Should reference numeral "100" be corrected to read -- 102 --?

Page 9, page line 10: Should reference numeral "102" be corrected to read -- 100 --?

Page 10, page line 1: Should reference numeral "102" be corrected to read -- 100 --?

Page 10, page line 2: Should reference numeral "100" be corrected to read -- 102 --?

Page 10, page lines 8, 9, 12, and 18: The abbreviation "Fig." should be corrected to read -- FIG. --.

Page 10, page line 29: Should reference numeral "100" be corrected to read -- 102 --?

Page 10, page line 30: Should reference numeral "102" be corrected to read -- 100 --?

Page 11, page line 15: The designation "Figs. 2" should be corrected to read -- FIGS. 2a-2c --; and should reference numeral "100" be corrected to read -- 102 --?

Page 11, page line 20: Should reference numeral "102" be corrected to read -- 100 --?

Page 11, page lines 21, 22, 23, 29, and 32: Reference numeral "109" should be corrected to read -- 110 --.

Page 11, page line 33: Should reference numeral "102" be corrected to read -- 100 --?

Page 12, page line 1: Should reference numeral "102" be corrected to read -- 100 --?

Page 12, page lines 2 and 3: Reference numeral "109" should be corrected to read -- 110 --.

Page 12, page line 6: Should reference numeral "102" be corrected to read -- 100 --?

Page 12, page line 8: Should reference numeral "100" be corrected to read -- 102 -- and reference numeral "102" corrected to read -- 100 --?

Page 12, page line 8: A -- period -- should be inserted at the end of the sentence.

Page 12, page line 16: Should reference numeral "100" be corrected to read -- 102 --?

Page 12, page line 29: Should reference numeral "100" be corrected to read -- 102 --?

Page 12, page line 30: Should reference numeral "102" be corrected to read -- 100 --?

Page 13, page line 1: The term "Figures" should be corrected to read -- FIGS. --.

Page 13, page lines 5, 11, 25, 29, 31, and 32: The term "Figure" should be corrected to read -- FIG. --.

Page 13, page line 26: Reference designation "Figures 2" should be corrected to read -- FIGS. 2a-2c --.

Page 14, page lines 1 and 30: The term "Figure" should be corrected to read -- FIG. --.

Page 14, page line 17: The term "Figure" should be corrected to read -- figure --.

Page 15, page line 3: The term "Figure" should be corrected to read -- FIG. --; and the term "produce" should be corrected to read -- produces --.

Page 15, page line 34: The abbreviation "Fig." should be corrected to read -- FIG. --.

Page 16, page lines 3 and 12: The abbreviation "Fig." should be corrected to read -- FIGS. --.

Page 16, page line 30: The term "Figures" should be corrected to read

-- FIGS. --.

Page 16, page lines 33 and 34: The term "Figure" should be corrected to read

-- FIG. --.

Page 17, page lines 10, 17, 24, 25, and 31: The term "Figure" should be corrected to read -- FIG. --.

Page 17, page line 13: The term "Figures" should be corrected to read

-- FIGS. --.

Page 17, page line 27: The term "Figure" should be corrected to read -- figure --.

Page 18, page lines 6, 23, and 29: The term "Figures" should be corrected to read -- FIGS. --.

Page 18, page line 7: The term "Figure" should be corrected to read -- figure --.

Page 18, page line 19: The term "Figure" should be corrected to read -- FIG. --.

Page 20, page line 29: Reference numeral "705" should be corrected to read as reference numeral -- 704 --.

Page 21, page line 4: The term "Figures" should be corrected to read -- FIGS. --.

Page 21, page lines 18, 19, and 29: The term "Figure" should be corrected to read -- FIG. --.

Page 22, page lines 15 and 16: The term "Figure" should be corrected to read

-- FIG. --.

Page 23, page line 27: The term "Figures" should be corrected to read

-- figures --; and the article -- a -- should be inserted prior to the term "single".

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Page 24, page lines 16, 19, and 29: The term "Figure" should be corrected to read -- FIG. --.

Page 24, page line 25: The term "Figure" should be corrected to read -- figure --.

Page 25, page line 14: Reference numeral "1203" should be corrected to read as reference numeral -- 1209 --.

Page 25, page line 17: The term "Figure" should be corrected to read -- FIG. --.

Page 26, page lines 3, 11, 30, and 31: The term "Figure" should be corrected to read -- FIG. --.

Page 26, page line 30: The second occurrence of the term "Figure" should be corrected to read -- figure --.

Page 27, page lines 11, 14, and 19: The term "Figure" should be corrected to read -- FIG. --. Appropriate correction is required.

Double Patenting

8. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

9. Claim 1 is rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of prior U.S. Patent No. 6,655,194. This is a double patenting rejection.


Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Larkin whose telephone number is 571-272-2198. The examiner can normally be reached on 8:00 AM - 5:00 PM Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Larkin
AU 2856
12 May 2004


DANIEL S. LARKIN
PRIMARY EXAMINER